

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MATTHEW N. BATTLES,

Defendant.

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CASE NO. 8:07CR337

ORDER

This matter is before the Court on the Defendant's motion to hold the Defendant's motion to suppress in abeyance until the Court's acceptance of his anticipated guilty plea (Filing No. 37).

The Report and Recommendation filed by the Magistrate Judge F.A. Gossett, was filed on April 2, 2008. (Filing No. 34.) On April 16, 2008, the Defendant moved to extend the time period for filing objections to the Report and Recommendation until May 12, 2008. (Filing No. 35.) No objections were filed. On May 12, 2008, the Defendant filed an unopposed motion to hold the Defendant's motion to suppress in abeyance pending the Court's acceptance of the anticipated guilty plea. The Eighth Circuit has stated the general rule that "[a] valid guilty plea is an admission of guilt that waives all non-jurisdictional defects and defenses." *United States v. Limley*, 510 F.3d 825, 827 (8th Cir. 2007). However, with the consent of the government and the Court a defendant may reserve the right to preserve the issue(s) relating to a pretrial matter for appeal. Fed. R. Crim. P. 11(a)(2). The Court finds no authority for holding a pretrial matter brought before the trial judge on a report and recommendation in abeyance pending acceptance of an anticipated plea of guilty, and no authority has been cited. The Court concludes that the Defendant's rights with respect to his motion to suppress can be met by addressing the motion and

Report and Recommendation in the normal course as required by 28 U.S.C. § 636(b) and NECrimR 57.1(c)(1)(B). In the event that the Defendant's motion to suppress is denied, the motion will be denied without prejudice to reassertion in the event that the Defendant's anticipated guilty plea is not accepted.

Because no objections have been filed to the Report and Recommendation within the extended time period requested by the Defendant and the Defendant has not requested the extension of that deadline within the previously allowed time period, the Report and Recommendation and motion to suppress are deemed submitted as of May 13, 2008.

IT IS ORDERED that the Defendant's unopposed motion to hold the Defendant's motion to suppress in abeyance until the anticipated guilty plea is accepted (Filing No. 37) is denied.

DATED this 13th day of May, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge